

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JEROME HAILEY,

Plaintiff,
v.

Civil Action No. 2:19-CV-10866
HONORABLE GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

MICHAEL TROMBLEY, et. al.,

Defendants,

_____/

**OPINION AND ORDER GRANTING PLAINTIFF'S MOTION TO
PROCEED WITHOUT PREPAYMENT OF FEES ON APPEAL (ECF No.
28)**

Plaintiff filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. This Court overruled the Magistrate Judge's Report and Recommendation and granted defendants' motion for summary judgment on the ground that plaintiff failed to exhaust his administrative remedies prior to filing his complaint. *Hailey v. Trombley*, No. 19-CV-10866, 2020 WL 1445754 (E.D. Mich. Mar. 25, 2020), *reconsideration denied*, No. 19-CV-10866, 2020 WL 3250215 (E.D. Mich. June 16, 2020). Plaintiff filed a notice of appeal regarding the Court's denial of his motion to alter or amend judgment. Plaintiff has also filed a motion or application to proceed on appeal without prepayment of fees. For the reasons that follow, the motion to proceed without prepayment of fees or costs on appeal is GRANTED.

28 U.S.C. § 1915(a)(3) indicates that an appeal may not be taken *in forma pauperis* if the trial court certifies in writing that is not taken in good faith. *See also McGore v. Wrigglesworth*, 114 F. 3d 601, 610 (6th Cir. 1997).

In determining whether an appeal under the *in forma pauperis* statute is taken in good faith, the good faith standard is an objective one. *Nabkey v. Gibson*, 923 F. Supp. 117, 122 (W.D. Mich. 1990)(quoting *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). The U.S. Supreme Court has interpreted good faith as stated in 28 U.S.C. § 1915 as simply meaning that the issue being appealed is “not frivolous.” *Davis v. Michigan Department of Corrections*, 746 F. Supp. 662, 667 (E.D. Mich. 1990)(quoting *Coppedge v. United States*, 369 U.S. at 445).

Plaintiff’s appeal has been undertaken in good faith, in that the issue being appealed is not frivolous. The Court will grant plaintiff’s motion to proceed without prepayment of fees.

IT IS HEREBY ORDERED THAT the motion to proceed without prepayment of fees (ECF No. 28) is **GRANTED**.

Dated: August 14, 2020

s/George Caram Steeh
GEORGE CARAM STEEH
United States District Judge